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AUTHOR Guerber, Gaer C.
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ABSTRACT

Prepared by an attorney, this guide is intended for school personnel involved in the work placement of students. Pertinent youth employment laws are condensed and interpreted, providing a reference guide for both school personnel and employers. Information is provided about the Fair Labor Standards Act of 1938, the Hittle Juvenile Employment Act, minimum wages, hours of work, responsibility of the work coordinator, and non-paying work experience. Also included are answers to questions frequently asked by employers, work coordinators, and school administrators. (NJ)

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YOUTH EMPLOYMENT LAWS:

A HAND-BOOK FOR SUPERVISORS OF YOUNG WORKERS

prepared by:

Gaer C. Guerber,

attorney-at-law

through special arrangement
with the Department of Research
and Evaluation of the School
District of the City of Pontiac

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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THE SCHOOL DISTRICT OF THE CITY OF PONTIAC
350 WIDE TRACK DRIVE EAST
PONTIAC, MICHIGAN 48058

Board of Education: Francis Webster, President; Elsie Mihalek, Vice-President; Gloria Hardiman, Secretary; Guy Blackburn; Stephanie Clanagan; John Irwin; Archibald Mosley.

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Velma S. Brawner, Project Officer, Washington, D.C.

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The Young Worker and the Law: a guide for 14-18 year olds.

Youth Employment Laws: a handbook for supervisors of young workers.

Did School Help Me Go to Work? Experiences of '72 Graduates.

Do Schools Prepare Good Workers? Views of Employers.

A Cost-Effective View of Vocational Education Programs.

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DOES Project conducted and reported by the Research and Evaluation Department, School District of the City of Pontiac

Dana P. Whitmer, Superintendent
Richard C. Fell, Assistant Superintendent
Odell Nails, Assistant Superintendent
B.C. Van Koughnett, Director of Government Relations
Alfred Pavlish, Director of Research and Evaluation

DOES Project Staff:

Stuart Packard, Michael Ponder, Jean Rosenthal, Thomas Shara, Edward Slawski.

School District Administration Building

350 WIDE TRACK DRIVE, EAST, PONTIAC, MICHIGAN 48058 Phone 338-9151

DANA P. WHITMER, SUPERINTENDENT

FOREWORD

The preparation of students to become skilled, productive, and self-fulfilled workers is one of the schools' major functions. There is widespread concern among employers, labor organizations, and governmental agencies about the effectiveness of the schools' contribution to the skill preparation and work attitudes of young people. Such concern is not misplaced for studies of the American work force indicate the strong presence of dissatisfaction, uncertainty, and hostility toward their jobs among American workers. In response to these evidences of unease about the role of work in the life of the nation, educational planners have given increasing attention to school programs which contribute to the work-readiness of youth.

The School District of the City of Pontiac, located in an industrial center and serving a working population, is very conscious of its responsibility to assist Pontiac students in making a successful transition from school to work. Recent years have seen substantial progress in our programs in career development, career education, and vocational education. We are proud of our progress, but we are aware that many of our students are not prepared sufficiently to cope with their uncertain vocational futures. The Decision-Oriented Evaluation System (DOES), a project funded under Part C, Vocational Education Act, and reported in part in this publication, has afforded the Pontiac schools an excellent opportunity to examine and evaluate portions of the district's programs in vocational education and work experience. The findings from the study will provide valuable information for school district planners and decision makers in determining future program directions. It is our sincere hope that the DOES report will be of assistance to other educators, as they examine their programs in vocational education.

Dana P. Whitmer

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INTRODUCTION

Work Studies, Cooperative Education, and other similar programs are integral parts of the well rounded educational experience being provided for today's students. Above and beyond providing student awareness of some of the realities and rewards of any specific area of employment, or career, the student must learn and be comfortable with the concept that employment requires adherence to rules and restrictions and is not a utopian world of laissez faire, restrictionless independence and total freedom. Using a working knowledge and understanding of the pertinent laws and regulations, the student can be provided with a method and tools for compliance and can be shown that such compliance need not be stifling, but rather enhances the possibility of securing the rewards that are available.

To provide an effective program for its students, a school administration must keep each member of its staff abreast of the current laws and must develop policies and procedures that are in accordance with all requirements. It must be remembered throughout that the employer, while he has many responsibilities in these areas, is primarily interested in producing goods or services for profit, not educating students. It is, therefore, incumbent upon the school administration, the work coordinator, and other responsible educators to monitor and supervise all such programs and ensure that all requirements are being met.

SPECIFIC STATUTES

The two primary statutes relative to employing a minor legally are:

1. The Federal Fair Labor Standards Act of 1938, as amended, (29 USCS, par. 201, et seq.).
2. The Hittle Juvenile Employment Act of 1947, (MCLA 17.701 et seq; MSA 409.1 et seq.).

The State Hours and Wage laws relating to maximum working hours and minimum wages will also be discussed as they apply to the legal employment of minors.

FAIR LABOR STANDARDS ACT OF 1938

Federal law applies to employers and employees that are engaged, in any form or manner, in "commerce". The Act defines commerce as "trade, commerce, transportation, transmission or communication among the several States or between any State and any place outside thereof", [29 USCS, par. 203 (b)]. This includes the production of goods for commerce, which phrase is defined at 29 USCS, paragraph 203 (i) and (j). The definition contained in the various provisions of the Act is sufficiently broad to include producing, manufacturing, mining in any manner, handling or transporting, or in any other manner working on goods which travel in interstate commerce, or in any closely related process or any occupation directly essential to the production or handling of any such goods. This would include employees working in communications industries, such as radio, television, telephone, etc., or employees

who work for industries or enterprises which regularly use the mails, telephone, and other means of interstate or foreign communications. Examples of establishments which are closely related to such industries would include hotels, motels, restaurants, hospitals, laundries, dry cleaning establishments, schools, and any other type of enterprise which services such industries. It must be pointed out that the definition is extremely broad; however, most employers will know whether or not they are included in the requirements of the Fair Labor Standards Act.

Minimum Wages:

The Act provides that, "Every employer shall pay to each of his employees, who in any work is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

> ...not less than $2.30 an hour after December 31, 1975, except as otherwise provided in this section (29 USCS, par. 206)."

The balance of this section of the Act relates to numerous exceptions and exemptions, among them being student-learners, apprentices, and several other exceptions which will be dealt with herein.

Student-Learners:

If an employment situation qualifies the minor employee as a student-learner, that employment need not comply with the minimum wage requirements of the Federal Fair Labor

Standards Act. Pursuant to the regulations issued by the United States Department of Labor, Wage and Hour Division, "a student-learner is a student who is receiving instruction in an accredited college or university and who is employed on a part-time basis, pursuant to a bona fide vocational training program." The regulations continue to define "bona fide vocational training program" as being one authorized and approved by a state board of vocational education or other recognized educational body and provides for part-time employment training which may be scheduled for a part of the work day or work week, for alternating weeks, or for other limited periods during the year, supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related industrial information given as a regular part of the student-learner's course of study by an accredited school, college or university."

For a more detailed description of the requirements for a qualified vocational training program, the Wage and Hour Division of the United States Department of Labor must be contacted and the specific employment situation must have approval from that division of the Department of Labor. The basic requirements, in addition to the above definition, are essentially as follows:

1. The student-learner must be enrolled in a qualified program provided by a state or local educational institution or in a substantially similar program conducted

by a private school.

2. The employment is pursuant to a written agreement which provides that the occupations are either non-hazardous or shall be incidental to the training of the student, the work shall be for intermittent and for short periods of time and be under direct and close supervision of a qualified experienced person, and that safety instruction shall be given by the school and correlated by the employer with on-the-job training, and that the agreement provides for a schedule of organized and progressive work processes which correlates to the training provided by the school.
3. The wages of the student-learner may not be lower than 85% of the applicable minimum wage as previously outlined.
4. The student-learner must always be at least sixteen (16) years of age and, further, must be a minimum of eighteen (18) years of age, if he is employed in any activity which has been declared a hazardous occupation by the Secretary of Labor.
5. The occupation must be of sufficient complexity to necessitate a substantial learning period of the development of skills; however, the learning may not be for the primary purpose of acquiring manual

dexterity and high production speed in repetitive operations. The employment of a student-learner may not displace a worker employed in the establishment, and the wages paid must not tend to impair or depress wage rates or working standards for experienced workers in the community.

6. The total number of hours worked may not, under any circumstances, exceed 40 hours per week and during periods of time when school is normally in session, the total number of hours for both the academic and the employment activities may not exceed 40 hours per week.
7. Both the academic institution and the employer have the responsibility of keeping accurate records of wages and hours worked, hours of academic instruction received, and certain other records for the purpose of reporting to the Department of Labor. For a detailed analysis of the specific requirements, the Wage and Hour Division of the United States Department of Labor must be contacted.

Apprentices:

There are certain non-agricultural, hazardous occupations which will, under certain circumstances, qualify for the employment of a minor as an apprentice. The United States Department of Labor must be contacted for a current list

of the exceptions, but the general requirements are summarized as follows:

1. The apprentice must be employed in a craft or trade which the Department of Labor recognizes as an apprenticeable trade.
2. The work of the apprentice must be incidental to his training and may not be for the purpose of displacing an experienced worker.
3. The work must be for short periods of time and intermittent, and must be under the direct and close supervision of a journeyman or other qualified, experienced worker in the trade.
4. The apprentice must be registered by the Bureau of Apprenticeship and Training of the U.S. Department of Labor and must be employed in accordance with the standards established by that bureau. For a list of trades and crafts which qualify, the Bureau of Apprenticeship and Training of the U.S. Department of Labor must be contacted.

Other Exemptions:

There are numerous other exemptions to the Federal Fair Labor Standards Act in addition to student-learners and apprentices, a brief outline of which follows:

1. Children under the age of sixteen (16) years when employed by their parents are exempt, providing the occupation is not manufacturing or mining or an occupation declared hazardous

for minors under the age of eighteen (18).

2. Agricultural employment for children under sixteen (16) years, when employed by their parents, is an exemption, if the occupation has not been declared hazardous and the employment is outside the hours during which school is in session.
3. Actors or performers in motion pictures, theatrical productions, radio or television productions are likewise exempt.
4. Children engaged in the delivery of newspapers and magazines to the consumer are likewise exempt from the requirements of the Federal Fair Labor Standards Act.

Summary of Federal Fair Labor Standards Act:

To summarize, any employment involved in production or provision of goods and services in interstate commerce must comply with the requirements of the Federal Fair Labor Standards Act. Certain exemptions are made for student-learners, apprentices, and other specific situations, if the employment conforms to the requirements of the various statutes and regulations.

HITTLE JUVENILE EMPLOYMENT ACT

The State of Michigan has enacted certain statutes governing the legal employment of minors in this State. The Hittle Juvenile Employment Act can be found at Michigan Statutes Annotated 17.701 et seq. The Act basically outlines the ways in which a minor, under the age of eighteen (18) years, can be legally employed.

If the employment of a minor does not conform to the requirements of the Act, that employment is illegal and a criminal fine of $100.00 and/or 90 days in jail may be assessed for each violation of the Act. Contrary to the Federal Statutes, the State law does not define the concept of employment, and each situation must be reviewed and analyzed to determine whether or not the situation is employment. Generally, any compensation paid to a student will make his activities employment activities. Certain non-compensated activities may also be considered employment if the primary purpose of those activities is to produce or assist in the production of goods or services which are sold for profit or other gain or benefit. Generally, however, all employment is covered under the Act.

Minimum Ages:

The basic premise of the Act is that no one under the age of eighteen (18) years can be legally employed. The only exceptions to the Act are as follows:

1. A minor, seventeen (17) years of age or over who has completed the requirements and received a valid high school diploma.
2. Magazine, newspaper, and advertising distribution or sales, including the solicitation of subscriptions.
3. Farm work.
4. Domestic work or chores in connection with private residences.
5. Employment in a trade in which the parent

or guardian is either self-employed or is the sole owner of the business and devotes substantially all of his normal working hours to the operation of such business.

6. Employment on a campsite as a counselor, or otherwise, if the camp is a non-profit corporation engaged in citizenship training and character building, provided that such employment is only during periods of school vacations.

If the student is required by law to attend school, then the work allowed by these exemptions can only be performed outside of normal school hours, (MSA 17.714).

Work Permits:

No minor under the age of fourteen (14) may be issued a work permit except for employment as a caddy at a public or private golf course. Between the ages of fourteen (14) and eighteen (18) years, all minors who are employed must have a valid work permit. Work permits are issued by the superintendent of the school district in which the minor resides, or some other officer within the school district who is authorized by the superintendent to issue permits, (MSA 17.703).

The individual who is authorized to issue the work permits must comply with the Act (MSA 17.704), and before issuing a permit must have examined and must keep and maintain the following papers:

1. The prospective employer's statement of his intention to employ the minor, including

the general nature of the occupation, the hours during which the minor shall be employed, the employer's occupational approval number, and other information on a form which may be obtained from the Michigan Department of Labor, Bureau of Safety and Regulation.

2. Sufficient evidence of age showing that the minor is within the proper age category defined by the Act. One or more of the following may be used as valid evidence of age:

   a) Certified birth certificate.

   b) Baptismal certificate.

   c) Certified copy of a valid driver's license, if issued by the State of Michigan.

   d) In the event none of the above is available, the issuing officer may look to school records, family Bible, passports, or other evidence of age.

3. The issuing officer may also require written approval of the employment signed by the parent or guardian of the minor.

Hazardous Occupations:

It is the obligation of the issuing officer to satisfy himself that the work in which the minor is engaged is not hazardous. The Department of Labor has determined that certain occupations are hazardous and that minors may not work in those occupations. In order for a minor to be legally employed in those occupations, application for

special approval must be made to the Department of Labor, Bureau of Safety and Regulation. The list of hazardous occupations is as follows:

1. All occupations in and around chemical plants manufacturing explosives or dangerous chemicals, cement, paint, or varnish.
2. Vehicle drivers.
3. All occupations in and around mines or quarries.
4. All occupations in, or in connection with, saw mills or logging industries.
5. Operation or tending of woodworking machines.
6. Setting up, adjusting, cleaning, or oiling machinery in motion.
7. Brazing, welding, soldering, or heat treating.
8. Blast furnaces, foundries, or reduction.
9. Motion picture projectionist, which is prohibited by separate State law.
10. Sandblasting.
11. For females, general public messenger services prohibited by separate State law.
12. Any liquor or entertainment work, either paid or voluntary, in the portion of any premises where liquor is being served or consumed, is prohibited by separate State law.
13. Outside erection and repair of electrical light and power lines for installing or removing electric light and power meters, as well as inside wiring.
14. All occupations that require the operation

of or helping on hazardous power driven machinery.

15. Weight restriction for females is 35 lbs.; for males, sixteen (16) and seventeen (17) years of age, is 50 lbs.; for males, fourteen (14) and fifteen (15) years, is 35 lbs.
16. All jobs in or around construction work.
17. Occupations in laboratories that are deemed hazardous.
18. If under sixteen (16) years of age, employment in garages, gas stations, and parking lots is deemed hazardous.
19. Pin spotting work in bowling alleys for anyone under sixteen (16) years of age is deemed hazardous.
20. All occupations involving slaughtering, butchering, and meat cutting.
21. Certain occupations around transportation terminals.
22. Occupations requiring operation of elevators or other hoisting equipment.
23. Street or road work where the minor is exposed to moving traffic.
24. Occupations involving grinding, stone cutting, polishing, and buffing.
25. Occupations requiring spray painting, dipping, or other painting.
26. Occupations in the glass industry.

27. Occupations in the tanning industry.

28. Occupations where the minor is exposed to dust, poisonous gases, lead fumes, or other health hazards.

29. Occupations where there is exposure to ionizing radiation, including all x-rays.

Under certain conditions, minors may be employed in the above occupations, only after prior approval has been granted by the Department of Labor. It is the obligation of the issuing officer to secure the specific approval prior to the issuance of the work permit.

At any time the occupational setting of the minor changes, or the circumstances of the employment change, to the extent that the work becomes hazardous, or the requirements are not being met, the issuing officer has the obligation to revoke the working permit, or make the necessary changes in the working situation.

MINIMUM WAGES

Michigan has enacted a Minimum Wage Law (17.255, et seq.), and requires that an employee be paid certain minimum wages as well as being subject to certain maximum hours of work.

The Minimum Wage Law defines an employee as "an individual between the ages of eighteen (18) and sixty-five (65) years employed by an employer on the premises of the employer or at a fixed rate designated by the employer, or a minor employed under Section 23 of Act 27 of the Public Acts of 1947, being Section 409.23 of the

Michigan Compiled Laws (reference here is being made to certain minors being employed at restaurants where alcoholic beverages are served), [MSA 17.255 (2) (b)]. This section of the Minimum Wage Law effectively eliminates the necessity to comply with minimum wage requirements, if the student is otherwise legally employed pursuant to the requirements of the Hittle Juvenile Employment Act. If, however, it becomes necessary, in any given situation, to comply with the Minimum Wage Law, the minimum wages effective January 1, 1976, are $2.20 per hour, and after January 1, 1977 are $2.30 per hour.

HOURS OF WORK

Minors Below Age Sixteen (16):

Section 17 (MSA 17.717) requires that all minors under the age of sixteen (16) may not work more than six days in any one week, nor for periods longer than a weekly average of eight hours per day, nor more than forty-eight hours in any week, nor more than ten hours in any single day. A minor below the age of sixteen (16) may not work earlier than seven in the morning nor later than nine at night. In other words it is only legal to employ such a minor between the hours of seven in the morning and nine in the evening. The total number of hours of employment must be combined with the total number of hours of school work when calculating the maximum hours that such minor may work in any given week (48 hours combined, school and work we

Minors, Ages Sixteen (16) to Eighteen (18):

Minors sixteen (16) and seventeen (17) years old may not be employed more than six days in any one week nor for a period longer than a weekly average of eight hours per day or forty-eight hours in any week. Such minors may not be employed after the hours of ten-thirty p.m. nor earlier than six o'clock a.m. In other words the legal times during which a minor may be employed are between six in the morning and ten-thirty in the evening. The only exception is that if such minor is not regularly attending school, then he may be employed until eleven-thirty in the evening, or, if employed in a theatrical performance that begins earlier than ten o'clock in the evening, he may continue to the completion of that performance. No female shall be employed in a manufacturing establishment after six p.m. in the evening or earlier than six o'clock in the morning. As in the fourteen (14) and fifteen (15) year old category, minors in this category must compute both school work and work hours in computing the maximum forty-eight hour per week limitation (MSA 17.718).

COOPERATIVE EDUCATION

Section 15 of the Act (MSA 17.715), allows a student over the age of fourteen (14) years to be employed by an academy or college or as an integral part of the educational program in which the student is enrolled. In order to comply with this situation, the school board and the employer must enter into a contract or training

agreement which outlines the activities that are to be required of the minor as a trainee. Those activities must be coordinated with in-school related instruction, consultation, and advisory services to both the student and, when appropriate, to the employer and other parties participating in the program. The employment of the trainee must conform to the Federal Fair Labor Standards Act, the Hittle Juvenile Employment Act, as well as all other regulations. It is the obligation of the work coordinator to make sure that all requirements are followed, all records are kept, and all reports are made. It is also incumbent upon the work coordinator to terminate the program if either the student or the employer are found to be in violation of the agreement or the law. As an alternative to termination, the work coordinator may make necessary corrections, such as hours of work, activities required, etc.

Responsibility of Work Coordinator and/or Work Permit Issuing Officer:

Inasmuch as employers are primarily interested in producing a product or a service for profit, and students, often, are only interested in securing a job for pay, it is incumbent upon the work coordinator or the work permit issuing officer to make certain that all requirements are complied with. It may be necessary for the work coordinator to prepare several of the forms which are to be completed by the employer, such as the occupational approval application, the occupational approval number, etc. The work coordinator or issuing officer must make

sure that the work permit, or the properly signed training agreement has been secured and is properly on file with the employer. In instances where the employer must report the progress and activities of the student employee, it will be the obligation of the work coordinator to make sure the reports are made at the appropriate intervals. In order to determine the proper participation of all parties, it might be necessary for the work coordinator to visit the employment situation periodically in order to evaluate performance of both the employer and the student, as well as the hazardous or non-hazardous nature of the employment situation. When the circumstances of the employment are in non-compliance with the various requirements, it is incumbent upon the work coordinator or the work permit issuing officer either to terminate the program or revoke the working permit. The issuing officer must keep a record of each refusal or revocation of a working permit and the reason for said action. The Department of Labor has an obligation to inspect employment situations and determine whether they are hazardous or injurious to the health or morals of the student, but as a practical matter the work coordinator must make his own independent appraisal and take appropriate action. It also is incumbent upon the work coordinator or issuing officer to maintain a familiarity with the student's academic progress, and, if the issuing officer determines that the student's employment is interfering with the student's academic progress, the employment relationship should be terminated

either by the work coordinator or the work permit issuing officer.

In summary, the primary responsibility for all phases of compliance with all statutes, both Federal and State, as well as other regulations, lies with the work coordinator and/or the work permit issuing officer.

NON-PAY WORK EXPERIENCE

There is a growing trend among educators to provide students with valuable practical experience and first-hand knowledge of the realities of various career opportunities through the vehicle of the non-pay work experience. The primary question that arises, is whether this situation is employment and subject to the requirements of Federal and State laws, or is merely an extension of the classroom to afford the student the opportunity to gain the obvious benefits.

The key concept in making the above determination is the distinction of whether or not the student is an employee. The Federal Fair Labor Standards Act lists several requirements for qualification as a student-learner:

1. The training must be similar to that provided in a vocational school, in spite of the fact that it may include actual operation of machines or facilities of the employer.
2. The training must be for the benefit of the trainees or students.
3. The students in training may not displace

regular employees, but must work under close supervisfon of experienced regular employees.

4. The employer who provides the training must derive no immediate advantage from the activities of the students, and, in fact, a "pure learning" situation may actually impede the operation of the employer.
5. The students may not be guaranteed a job at the conclusion of the training.
6. Both the employer and the student must understand that wages are not an integral part of the program.
7. The work experience of the student should be rotated throughout several occupational areas in a given work cycle, since continued work in a single area might create an employment situation.
8. Students may not, with certain exceptions, come in contact with any phase of a hazardous occupation.

In addition to the Federal Standards outlined above, the payment of wages is a critical factor. If wages are paid and work is performed, the authorities unanimously agree the situation is one of employer-employee. In the event no wages are paid, but the student is doing productive work for the benefit of the employer, some courts have found the educational experience to be sufficient compensation to create an employment situation. The key factor in this type of situation is whether or

not the employer derives a direct benefit from the activities of the student. It must be noted, however, that simply having a student occasionally operate a machine, perform a function, or do other productive work does not necessarily create the employment situation. The principal concept is that the benefit must accrue to the student rather than the employer. The length of time that a student is engaged in a productive activity is critical in determining whether the student or the employer benefits. As the time the student performs a production function increases, the benefit to the employer increases and the benefit the student derives from the learning experience decreases.

The coordinated classroom instruction is another facet in determining whether an employment situation exists. If there is no correlation between the work experience and the academic experience, and the student participates in some productive activity for his "employer", the likelihood is that an employment situation will arise. If, on the other hand, the work experience correlates favorably with the classroom experience, the situation is likely to be a valid, non-pay, work and learning experience.

The supervising faculty member must be acutely aware of tendencies toward student exploitation and must carefully analyze each program as well as each situation within any continuing program.

QUESTIONS AND ANSWERS

Questions Frequently Asked by Employers:

Question: Who pays for workmen's compensation premiums related to the hiring of a co-op student?

Answer: Once a student becomes legally employed under the applicable provisions of both Federal and State laws, that student becomes an employee for most purposes. As such, the employer is responsible for any increase in his workmen's compensation premium, social security and withholding taxes, and all other normal employer-employee responsibilities.

Question : Can I make a contract which will eliminate any liability I have for the student employee?

Answer: Generally, no. Certain requirements, such as withholdings from wages, are governed by the State statutes. Both the Federal Fair Labor Standards Act and the Michigan Hittle Juvenile Employment Act contain criminal penalties for violation which cannot be contracted away. The appropriate statutes regarding payment of wages cannot be altered by contract. The fact that an employer is dealing with a school district and a student employee, does not mean that he can enter into a contract which would be prohibited in the case of a non-student employee.

Question : What is my liability if I violate either the Federal or the State statute?

Answer: The Federal Fair Labor Standards Act provides criminal penalties as high as a $10,000.00 fine and imprisonment for not more than six months, or both, as well as certain civil liabilities regarding the payment of wages provisions. The State statutes provide for criminal penalties of a fine of up to $100.00 and imprisonment for not more than 90 days, or both. Generally, the criminal and civil liabilities regarding the employment of minors are the same as those applicable to the employment of adults.

Question: How does the hiring of a co-op student or student-learner affect my union contract?

Answer: Many union contracts have special provisions for situations wherein co-op students or student-learners are employed. Generally, the union contract is an agreement between the employer and his regular employees, and the employer is bound by the terms of that contract. It is often possible for an employer to make exceptions to his contract, or to make separate arrangements with his union, if the contract is silent or does not cover the situation of a co-op student or student-learner. The employer should be

advised to contact his union steward and business agent for clarification of his particular contract.

Question: Must I comply with the minimum wage law requirements when I hire a co-op student?

Answer: As outlined above, generally yes; however, there are numerous exceptions and special exemptions which can be made in certain individual cases on an employee-by-employee basis.

Question: What should I do if a co-op student or student-learner does not show up for work regularly, or refuses to work?

Answer: In all cases of student failure to work, the employer must notify the work coordinator or the appropriate school official, immediately.

Question: Can I reject a co-op student referred to me for any reason that I may chose?

Answer: Both Federal and State laws require that all employment be non-discriminatory, and rejection cannot be based upon race or other illegal discriminatory factors.

<u>Questions Frequently Asked by Work Coordinators and School Administrators</u>:

Question: What liability do I have for issuing work permits?

Answer: Inasmuch as it is the issuing officer's responsibility to make sure that the work

situation complies with all requirements, a work permit issued for employment in a hazardous occupation could result in civil liability for damages, if the student were injured because the hazardous condition had not been determined in advance. It is the responsibility of the work coordinator and the issuing officer to make sure all regulations are complied with. If an injury or other problem arises as a direct result of the failure to fulfill these responsibilities properly, then some form of civil liability may attach.

Question: What is my course of action, when I learn that either the student or the employer is not following the agreed terms of the employment situation?

Answer: Whenever the work coordinator or other responsible school official learns that the student is not reporting for work regularly, or otherwise is not living up to his employment situation, or that the employer is not abiding by the requirements placed on him, the issuing officer or work coordinator must either correct the situation or terminate the employment relationship. The responsibility of the coordinator or other responsible school official is the same in both paid and

non-paid work experience. If a school official knowingly allows the non-compliance to continue, some civil liabilities for damages resulting from that non-compliance may attach either to the school district or the responsible official. Of course, civil liabilities may attach to the employer.

Question: What is my obligation to monitor the academic progress of the students whose work activities I am supervising?

Answer: Within the context of the various relationships that exist, the work coordinator, issuing officer, or other supervising official must have some means of determining that a student's employment is not interfering with his academic progress. The process could involve periodic reports from counselors or teachers of the student, or some other mutually accepted means. However, if the work coordinator or other responsible staff member learns that the student's academic progress is suffering, the situation must be corrected through either counseling with the student or termination of the employment activity.

Question: How can I stay abreast of all current laws and regulations relative to student employment?

Answer: The school board and the responsible official of the school district have the responsibility for developing programs and policies which will carry out the goals of the various work programs. The first source of information should be within the school district itself. For additional and current information the following State and Federal agencies may be contacted:

Michigan Department of Education
Vocational Education and Career
Development Service.
P.O. Box 928
Lansing, Michigan 48904

U.S. Department of Labor
219 Dearborn Street
Chicago, Illinois 60604

-or-

35-37 Huron Street
Room G-9
Federal Building
Pontiac, Michigan
Telephone: (313) 332-3716

Michigan Department of Labor
300 E. Michigan
Lansing, Michigan 48926
Telephone: (517) 373-3566

-or-

Room 619
7310 Woodward Avenue
Detroit, Michigan 48202
Telephone: (313) 871-7666

Question: What is the school district's liability for providing a place for job referrals or other "bulletin board" employment directory assistance?

Answer : If the activities of the school district or any individual within that district are extensive enough to be considered in any manner an employment service, then some liability may attach to the school district resulting from abuses or problems arising from use of that service. There does not, however, appear to be any liability that would attach to the school district for the simple function of providing a bulletin board, or other means, which both students and employers could use as a device to locate employment and employees. It also must be remembered that the Federal Fair Labor Standards Act and the Hittle Juvenile Employment Act are requirements for the legal employment of minors, and all the provisions of both of those laws must be complied with before legal employment can take place. This condition applies when the employee is working under the auspices of the school district as a student-learner or co-op student, and when he is privately and independently employed by an employer with no association with the school district.

Question: What is the school's liability for students while they are employed?

Answer: When employment exists, the liability on the part of the employer is the same as it is with any other employee. The location of the employment will be considered an extension of the school premises in terms of any liability that isn't covered by the employer. Liability in transit normally rests primarily with the operator of the vehicle. Only in the event that the school is directly providing transportation, or the school district has knowledge that the transportation is excessively dangerous, will any transportation liability accure to the school district.

Question: Can an employer contract away all his liability for student employees?

Answer: No. Once a valid employment situation exists, the employer's liability is established by the workmen's compensation statutes and other statutory and case law. An employer cannot make a contract to eliminate his liability for a student employee, any more than he can make such a contract for a regular adult employee.

Question: Does the Minimum Wage Law apply to student employment?

Answer: Yes. As outlined in the above material the Federal and State Minimum Wage laws apply.

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unless an exception is provided within the appropriate statute, or a specific exception is acquired in accordance with the terms of the appropriate statute.